

MINUTES
WV RACING COMMISSION
Friday, September 9, 2011 10:00 A.M.
WV Lottery

The WV Racing Commission met on September 9, 2011, at 10:00 AM to conduct business and consider administrative matters. Roll call was taken and present were Chairman Joe Smith, Commissioner Greg McDermott, and Commissioner Jack Rossi. Counsel was represented by Kelli Talbott and Anthony Eates.

Approval of July 15, 2011 Minutes

The Commissioners and both attorneys received the minutes from the July 15, 2011, meeting prior to this meeting. Mr. McDermott moved to accept the minutes, Mr. Rossi seconded the motion. The Commissioners approved the June 24, 2011 minutes by unanimous consent.

Approval of July 22, 2011 Minutes

The Commissioners and both attorneys received the minutes from the July 22, 2011, meeting prior to this meeting. Mr. Rossi moved to accept the minutes, Mr. McDermott seconded the motion. The Commissioners approved the July 22, 2011 minutes by unanimous consent.

Approval of August 16, 2011 Minutes

The Commissioners and both attorneys received the minutes from the August 16, 2011, meeting prior to this meeting. Mr. McDermott moved to accept the minutes, Mr. Rossi seconded the motion. The Commissioners approved the August 16, 2011 minutes by unanimous consent.

Wheeling Island request to allow less than eight greyhounds to run in a purse race

Upon motion by Mr. Rossi, seconded by Mr. McDermott, the Commission agreed to defer any decision until counsel can research the legal issues surrounding the matter, and the Commission's authority to act.

Occupational permit reinstatement – Todd Kilmer

Upon motion by Mr. McDermott, seconded by Mr. Rossi, the Commission agreed to defer any decision until a more extensive background check is done, including receipt of any letters of recommendation.

Occupational permit reinstatement – Tommy Hoop

Upon motion by Mr. McDermott, seconded by Mr. McDermott, the Commission voted to defer any discussion until all required information is obtained.

Occupational reinstatement – Greta Kuntzweiler

Upon motion by Mr. McDermott, seconded by Mr. Rossi, the Commission approved the request, having received the results of a thorough background check, medical certificate, and with assurance from her counsel that she would agree to sign a consent agreement, which included random testing at the track.

Charles Town, capital improvement request for \$849,926.00 for track projects

Upon motion by Mr. McDermott, seconded by Mr. Rossi, the Commission approved the requests for several track needs, following confirmation that Charles Town has the funds available. Chairman Smith requested that the Commission auditor have written reconciliation and approval that funding is available for all capital improvement requests.

Charles Town, capital improvement request for \$183,000.00 for barn receptacles and CO1 and CO2 HVAC replacements

Upon motion by Mr. McDermott, seconded by Mr. Rossi, the Commission approved the request.

Mountaineer Racetrack, no-slaughter policy

It was established that Mountaineer Park has revised their no-slaughter policy in place with the owners and trainers. Among other things, it establishes that if a horse is sold, the transaction cannot lead to the slaughter of a horse. Penalties include ejection from the track.

Advice from counsel, \$1 million liability insurance requirement at Charles Town Racetrack

Ms. Talbott stated that there is no legal prohibition with the current coverage requirements, and that the track is also required to carry a liability insurance policy.

Mountaineer Racetrack, request to add Pick 4 and Super Five wagers

Request from Mardi Gras, replace Tri-Super with a regular Trifecta

Authorization for Executive Director to approve wagers already authorized in agency legislative rules

Upon motion by Mr. Rossi, seconded by Mr. McDermott, the Commission approved the authorization by Executive Director Jon Amores to approve changes in wagers, if the request is in conformity with existing agency rules. Both Mountaineer's and Mardi Gras Racetracks' changes were also approved.

Charles Town Racetrack, request to reduce take-out rate

Upon motion by Mr. McDermott, seconded by Mr. Rossi, the Commission approved the request, noting Charles Town HBPA's representative, Ms. Catignani's, letter consenting to the reduction from 25% to 22%.

Advice from counsel, Wheeling island check charge on purse payments

Following Ms. Talbott's research and disclosure that the check charge is not legal, and upon motion by Mr. Rossi, seconded by Mr. McDermott, Wheeling Island is ordered to stop withholding this charge, and to make any affected party whole. The Commission left it to the track and WVGOBA representatives to determine whether a mutually satisfactory settlement amount could be negotiated.

Request for approval of \$1,345,000.00 for the Breeders Classics' purse

Upon motion by Mr. McDermott, seconded by Mr. Rossi, the Commission agreed to pay the purse reimbursement. Mr. Moore acknowledged the reconciliation of the funds and their availability. Carol Holden, President of WV Breeders Classics, LTD, extended an invitation to the races to be held October 15, 2011, at Charles Town Racetrack.

Presentation from Office of Technology, Memorandum of Understanding and planned operational improvements

JD Hughes presented his recommendations of two phases including updates to the website, all tracks, and backups. Following would be new software for the development fund clerks, license clerks, for Stewards' and Judges' Rulings and 10-10-10 information. Mr. Hughes will review the software vendors accommodating other states' racetracks, then request cost proposals. He will continue to update the Commission as things progress.

Report of error on order of finish by Judges, Race 14, on 9/02/11 at Wheeling Island

Executive Director Mr. Amores acknowledged the Judges' error as reported to him by the Chief Judge.

Occupational permit surrender – Gregory Martin

Mr. Amores stated that Mr. Martin surrendered his license. Mr. McDermott accepted the legal document.

Authorization to file simulcast rules, historic resort hotel

Upon motion by Mr. Rossi, seconded by Mr. McDermott, the Commission approved the filing of simulcasting rules at the Greenbrier with the Secretary of State.

Legislative rules, consideration of reconvening review committees for 2013 session

Upon motion by Mr. McDermott, seconded by Mr. Rossi, the Commission agreed to reappoint the same committees to update the agency rules. Commissioner Smith urged the need to be ready by March 31, 2012 for the 2013 legislative session.

Settlement update, Burdette v. Sidiropolis

Following Executive Session, the Commission rejected the settlement offer and authorized Ms. Talbott to invite another offer from Mr. Burdette's counsel.

Discussion of purse awards, first quarter fiscal year 2011, Wade Sanderson

Following Executive Session, upon motion by Mr. McDermott, seconded by Mr. Rossi, the Commission decided to defer any decision until Ms. Talbott can review the information.

Resignation of Investigator at Mountaineer Racetrack and hiring of new Investigator; selection of new Chief Investigator

Following Executive Session, upon motion by Mr. Rossi, seconded by Mr. McDermott, the Commission accepted Matt Rogerson's resignation, the hiring of Michael Vapner as the new Investigator at Mountaineer Racetrack, and the promotion of Art Wood to Chief Investigator.

Approval of Interagency Agreement extension with WV Lottery for accounting services

Upon motion by Mr. McDermott, seconded by Mr. Rossi, the Commission will extend the contract until the fiscal year audit is complete.

Adjournment

The next Commission meeting will be October 21, 2011, at 10 AM, at the WV Lottery.